But in the United States an interned subject of an enemy country was, by the President's proclamation of February 5, 1918, in accordance with a provision in the act, brought within the term "enemy" in the Trading with the Enemy Act of October 6, 1917. See 40 STAT. AT L. 411. This has the effect of putting such interned enemy subjects under a disability to sue except in the limited class of suits specifically mentioned by the act. See *Tortoriello* v. *Seghorn*, 103 Atl. 393, 394 (N. J. Eq.); *Arndt-Ober* v. *Metropolitan Opera Co.*, 182 App. Div. 513, 519; 162 N. Y. Supp. 944, 948.

WARRANTY — IMPLIED WARRANTY OF PLANS AND SPECIFICATIONS. — The plaintiff contracted to build a dry dock for the government in accordance with plans and specifications prepared by government officials. These provided first, for the relocation of an intersecting sewer, which work the plaintiff performed. Due to a defect in the plans the sewer proved insufficient and burst, flooding the excavation of the dry dock. The government refused to assume responsibility for the damage done, and upon the plaintiff's refusal to continue with the work annulled the contract. The plaintiff sued for work done and his profits. *Held*, that he could recover. *The United States* v. *Spearin*, U. S. Sup. Ct. Off., October Term, 1918, Nos. 44 and 45.

No supervening difficulty short of making performance impossible will excuse a party from completing that which he has contracted to do. *Walton* v. *Waterhouse*, 2 Wms. Saunders, 422 a, note 2; *Beebe* v. *Johnson*, 19 Wend. (N. Y.) 500; *Phillips* v. *Stevens*, 16 Mass. 238. Thus, destruction by fire, lightning or subsidence of the soil will not warrant a refusal on the part of the builder to render full performance, or entitle him to compensation for what he has already done. *Adams* v. *Nichols*, 19 Pick. (Mass.) 275; *School District* v. *Dauchy*, 25 Conn. 530; *Stees* v. *Leonard*, 20 Minn. 494; *Dermott* v. *Jones*, 2 Wall. (U. S.) 1. But where the difficulty results from defective plans and specifications, the general rule has been held not to apply, since the owner impliedly warrants the sufficiency of the plans he submits. *Bentley* v. *State*, 73 Wis. 416, 41 N. W. 338; *Faber* v. *City of New York*, 223 N. Y. 496, 118 N. E. 609. *Penn. Bridge* v. *City of New Orleans*, 222 Fed. 737. The English and some American courts deny the existence of such a warranty. *Thorn* v. *Mayor of London*, 1 A. C. 120; *Magnan* v. *Fuller*, 222 Mass. 530, 111 N. E. 399; *Leavitt* v. *Dover*, 67 N. H. 94, 32 Atl. 156; *Lonergan* v. *San Antonio Loan & Trust Co.*, 101 Tex. 63, 104 S. W. 1061. It seems erroneous to lay down a hard-and-fast rule that an owner does or does not warrant his plans. The existence of an implied warranty, as in the law of sales, should depend upon whether there has been a justifiable reliance by one on the other's judgment, which the particular facts of each case alone can decide. See *Kellogg Bridge Co.* v. *Hamilton*, 110 U. S. 108; WILLISTON, SALES, § 231. The respective knowledge of the parties, the opportunity for inspection by the builder, and the visibleness of the defects should all be considered in determining the question.

BOOK REVIEWS

INTERNATIONAL RIVERS. A Monograph based on Diplomatic Documents. By G. Kaeckenbeeck, B.C.L. Grotius Society Publications, No. 1. London: Street and Maxwell. 1918. pp. xxvi. 255.

"Et quidem naturali jure communia sunt omnium hæc: . . . aqua profluens . . ." (JUST. INST., II, 1, 1). At the Congress of Vienna in 1815 a body of diplomats controlling the destinies of the world took up for the first time as a general European problem the question of navigation upon "international

rivers," *i. e.*, those which form the national boundaries between states or flow through more than one state. The demands created by the growth of international shipping had come into irreconcilable conflict with the mediæval and feudal theory of the ownership of rivers, — a particularistic theory which made each state the uncontrolled owner of that portion of the river which lay within its boundaries. From such a theory came heavy local tolls and harassing regulations, so excessive and intolerable that either the theory must be modified or the rivers cease to be used as international highways. In a famous article (Art. 109) the diplomats of Vienna laid it down that the navigation of such international rivers "along their whole course, from the point where each of them becomes navigable, to its mouth, shall be entirely free, and shall not, as far as commerce is concerned, be prohibited to anyone."

Since that day for a century there has been a conflict between what might be called the "states' rights" school, contending that the riparian states may together exclude from river navigation whom they will and make such common regulations as they please, and the "internationalists' school," which maintains that international rivers shall be free and open to the ships of all nations upon equal and reasonable terms. The slow trend of opinion seems to have been in favor of the latter, if we may judge from the various conventions entered into during the last century.

Whether or no we have yet reached a point where it can be said that in the absence of convention international rivers are legally open to the flags of all nations, the diplomats at Versailles can best decide. Certain it is that the problem of international rivers must be considered by them; "in the countries whose fate will have particularly to be decided after this war, questions like those of the Danube, of the Polish rivers, of the Rhine, of the Scheldt, etc., will call for particular attention" (p. 28).

In order to bring together and review the mass of facts and documents connected with the regulation and administration of international rivers during the past century, Mr. Kaeckenbeeck, a gifted young Belgian who soon after the outbreak of the war came to Oxford and took up study in the law school there, has published a monograph entitled "International Rivers." Mr. Kaeckenbeeck advances no theories and carefully refrains from extended discussion; his purpose is simply to present his data and evidence in concise form, and this he does remarkably well. His mastery of a foreign tongue is excellent, and his presentation clear; the work as a whole possesses a unique value as constituting perhaps the only extended account in English of the gradual development of free navigation, announced at the Congress of Vienna, and applied successively to the Rhine, the Scheldt, the Danube, and the Congo and Niger rivers. The international regulations for the navigation of each of these rivers he describes at length. A brief survey at the outset of the mode of dealing with the problem of river navigation as developed under the Roman law, the mediæval law, the Law of Nature, and under the theory of State Sovereignty, adds to the interest of the book. Appendices dealing with other European rivers and briefly touching upon certain American rivers add to its value.

Mr. Kaeckenbeeck, within the limited sphere which he has chosen, has made a real contribution to the historical study of the law of international rivers, and as a reference book upon the nineteenth century treatment of these rivers his book will be of lasting value.

FRANCIS BOWES SAYRE.

THE LEAGUE OF NATIONS AND ITS PROBLEMS. Three Lectures. By L. Oppenheim, M.A., LL.D. Longmans, Green and Company. 1919. pp. xii. 84.

That an American critic should accuse an Englishman of being over-conservative is perhaps only the natural result of a deep-lying temperamental